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*Attorneys for David J. Doyaga, Sr., Plaintiff-Trustee*  
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**Hearing Date: May 4, 2021**  
**Hearing Time: 10:30 a.m.**  
**Objection Deadline: April 27, 2021**

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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In re:

Chapter 7

REDF EQUITIES, LLC,

Case No.: 19-46820-ess

Debtor.

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DAVID J. DOYAGA, SR. as Trustee of the  
Estate of REDF EQUITIES, LLC,

Adv. Pro. No.: 21-01008-ess

Plaintiff,

-against-

DAVID AUGENSTEIN,

Defendant.  
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**APPLICATION FOR ENTRY OF JUDGMENT UPON DEFAULT**

**TO: THE HONORABLE ELIZABETH S. STONG;**  
**UNITED STATES BANKRUPTCY JUDGE:**

Avrum J. Rosen, a member of the Law Offices of Avrum J. Rosen, PLLC, counsel for David J. Doyaga, Sr., Trustee and Plaintiff herein (the “Plaintiff”), respectfully submits this as and for his application (the “Application”) seeking the entry of an Order granting judgment upon default in favor of the Plaintiff and against David Augenstein (the “Defendant”), pursuant to Rule 55 of the Federal Rules of Civil Procedure (the “Federal Rules”) made applicable herein pursuant to Rule 7055 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and states as follows:

### **ADVERSARY PROCEEDING**

1. By complaint dated January 21, 2021 and summons dated January 22, 2021 (the “Complaint”), the Plaintiff commenced the instant adversary proceeding against the Defendant seeking to, among other things, recover (i) a fraudulent conveyance made by Redf Equities, LLC (the “Debtor”), to the Defendant, in the amount of \$130,000.00, for no consideration or reasonably equivalent, within the six (6) year reach-back period and which fraudulent conveyance is property of the Debtor’s estate (the “Fraudulent Transfer”); and (ii) attorneys’ fees and costs. In his Complaint, the Plaintiff also alleged that at the time of the Fraudulent Transfer, the Debtor was insolvent, or the Fraudulent Transfer rendered the Debtor insolvent, the Debtor was indebted to creditors, the Debtor was not paying its obligations as they became due and owing, and the Fraudulent Transfer was made with actual intent to hinder, delay, or defraud the Debtor’s creditors. A copy of the summons and Complaint as well as the Affidavit of Service attesting to service of same is annexed hereto as **Exhibit “A”**<sup>1</sup>.

2. As of the drafting of the instant Application, the Defendant has failed to answer, move or otherwise appear in this adversary proceeding.

3. According to the Complaint, the Plaintiff sought to recover the sum of \$130,000.00 (the “Damages”) under Sections 105, 323, 502, 541, 542, 544, 548 and 550 of Title 11, United States Code (the “Bankruptcy Code”); (ii) Rules 6009 and 7001 of the Bankruptcy Rules; and (iii) Sections 273, 274, 275, 276, and 276-a of the New York Debtor and Creditor Law (the “DCL”).

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<sup>1</sup> The Trustee knows that the Defendant received a copy of the Complaint because on March 11, 2021, the Trustee was contacted by Ms. Shira Biegacz, Esq. who purported to represent the Defendant.

4. As noted above, the Defendant has not answered, moved or otherwise appeared in this adversary proceeding.

5. Accordingly, at the Court's Pretrial Conference held on March 30, 2021, the Plaintiff respectfully requested this Court to note the Defendant's default and to provide the Plaintiff with a return date for his Motion for Default Judgement. In accordance with the Plaintiff's request, the Court noted the Defendant's default and gave the Plaintiff May 4, 2021 as a return date for his Motion for Default Judgement.

6. Upon information and belief, the Defendant is not an infant or incompetent.

7. Upon information and belief, the Defendant is not an individual serving in the United States Armed Forces.

#### **RELIEF REQUESTED**

8. Rule 55(b)(2) of the Federal Rules, made applicable under Rule 7055(b)(2) of the Bankruptcy Rules provides, among other things, that the party entitled to a judgment by default "must apply to the court for a default judgment."

9. In light of the fact that the Defendant failed to answer the Complaint, move or otherwise appear in this adversary proceeding, it is respectfully requested that the Court: (i) enter an Order authorizing entry of a default judgment against the Defendant for his failure to answer the Complaint; (ii) enter a Judgment against the Defendant ruling that the Fraudulent Transfer made by the Debtor to the Defendant is a fraudulent conveyance under (a) Sections 105, 323, 502, 541, 542, 544, 548 and 550 of the Bankruptcy Code; (b) Rules 6009 and 7001 of the Bankruptcy Rules; and (c) Sections 273, 274, 275, 276, and 276-a of the DCL; and (iii) enter a Judgment against the Defendant in the amount of \$130,000.00,

which represents Damages sought in the Complaint, under Section 550 of the Bankruptcy Code.

**WHEREFORE**, in view of the foregoing, it is respectfully requested that this Court (i) enter an Order and Judgment consistent with the relief requested in this affirmation; together with (ii) such other, further and different relief that this Court deems just, proper and equitable.

Dated: April 7, 2021  
Huntington, New York

Respectfully submitted,

**Law Offices of  
Avrum J. Rosen, PLLC**  
*Counsel to David J. Doyaga, Sr. as  
Chapter 7 Trustee of the Estate  
of Redf Equities, LLC*

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